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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

JUN 22 2004

Applicant: Forbes et. al. Group Art Unit: Unknown  
Serial No.: 10/685,943 Examiner: Not Yet Assigned  
Filed: March 29, 2004 (Disputed) Docket No. 200405.00017  
For: AUTO RACK RAIL CAR WITH END CLOSURE

OFFICIAL

PETITION UNDER 37 C.F.R. §1.53 TO CORRECT INCORRECTLY ENTERED  
FILING DATE

Attention: Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

Sir:

Applicants petition under 37 C.F.R. §1.53 to have the application filing date corrected to the application's original filing date, October 15, 2003.

This application was filed on October 15, 2003 as a continuation of U.S. Application Serial No. 10/135,859. The present application included a statement in its specification incorporating the parent application by reference, "...the subject matter of application 10/135,859 being incorporated by reference herein", (See paragraph [0001]).

When this application was filed, one drawing sheet containing two figures, figures 17 and 18, were inadvertently omitted. When Applicants' attorney noticed that figures 17 and 18 had inadvertently been omitted, a preliminary amendment was filed on March 29, 2004 to add the missing drawing sheet. In the preliminary amendment, Applicants' attorney stated that the additional sheet of figures, figure 17 and 18, was from the parent application, serial no. 10/135,859, the disclosure of which had been incorporated by reference. Applicants' attorney further stated that, as required by MPEP §608.01(p), that the added sheet of figures consisted of the same material that was incorporated by reference by the present application.

After the submission of this preliminary amendment, an Updated Filing Receipt was issued on June 1, 2004. In this Updated Filing Receipt, the filing date of this application was changed to March 29, 2004, the date the preliminary amendment was filed.

Since the referenced drawing sheet was also in parent application 10/135,859, which was specifically incorporated by reference, the drawings are not new matter. Section 201.06 of the

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MPEP states that incorporation by reference of a specifically enumerated prior parent application, containing common subject matter, is a filing date safeguard in instances, such as the present, when all of the pages of the specification or sheets of drawings have not been submitted in a continuation application. This safeguard was used in the present case when this application incorporated its parent application in its specification as filed.

Thus, this incorporation allows the inadvertently omitted or missing drawing sheet to be entered into the present application without losing the earlier filing date. According to MPEP 201.06 (c), the earlier filing date (October 15, 2003) should have been entered by the USPTO after the filing of an amendment.

Applicant thus requests that the application filing date be corrected to October 15, 2003, the date of filing of the original continuation application.

Please charge the \$130.00 petition fee under 37 C.F.R. § 1.17(h) to deposit account 15-0450.

Applicants respectfully request that, upon grant of this Petition Under 37 C.F.R. § 1.53, the petition fee be refunded by crediting deposit account 15-0450.

Respectfully submitted,

Hahn Loeser & Parks LLP



Michael H. Minns  
Registration 31,985

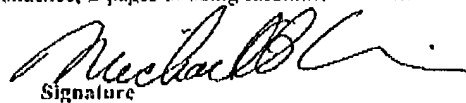
Date: 22 June 2004

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**CERTIFICATE TRANSMISSION (37 C.F.R. section 1.8(a))**

I hereby certify that, on the date shown below, this correspondence, 2 pages is being facsimile transmitted to the United States Patent and Trademark Office, 703-872-9306.

Date: 22 June 2004

  
Signature

Michael H. Minns